



State of Louisiana
DEPARTMENT OF HEALTH AND HOSPITALS
Louisiana Physical Therapy Board

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IN THE MATTER OF
MARCUS HOUSTON
LICENSE NO. 07911

CONSENT ORDER
NUMBER: 2022-I-020

CONSENT ORDER

MARCUS HOUSTON (“Mr. Houston” or “Respondent”) is a Physical Therapist (“PT”), as evidenced by License No. 07911, and is subject to the jurisdiction and the Rules and Regulations of the Louisiana Physical Therapy Practice Act (La. R.S. 37:2401, et seq.), and the Rules and Regulations of the Louisiana Physical Therapy Board (“LPTB” or “Board”) (LAC 46:LIV §103, et seq.), and enters in the following agreement relative to Complaint No. 2022-I-020.

FACTUAL BASIS FOR CONSENT ORDER

1. Respondent received his Physical Therapist license, number 07911, on or about on July 13, 2010.
2. On or about June 7, 2022, the Board received a confidential complaint asserting that Mr. Houston failed to properly document billing records and used a least one physical therapist not authorized to perform services for the LHC Group to conduct treatment on LHC Group/Ochsner Home Health patients under his name. The additional therapist was Kerney Craft, PTA.
3. By correspondence dated July 13, 2022, the Board noticed Mr. Houston of the allegations against him, the sections of the law and rules potentially violated by him and requested that he provide a written statement giving his review of the situation within thirty days.
4. In association with the investigation, Ochsner Home Health submitted documentation to the Board on July 27, 2022. The documents contained 1) the contract for Marcus Houston, 2) physician’s approvals for patient R.C., 3) correspondence between Marcus Houston and staff of Ochsner Home Health, and 4) patient records for R.C., J.J., and D.V. The records showed that Respondent billed for the same dates and times for patient R.C. and many of the notes did not have patient signatures.

5. By correspondence received August 12, 2022, Mr. Houston provided his response to the complaint, advising that he knows of no instances that he violated rules of the board or standards of practice. He also stated that he requested that all therapists be onboarded, and his request for PTA Craft was ignored.
6. Ochsner Home Health provided additional documentation including a compliance summary specific to the falsification of medical records concluding that outcomes were substantiated. A "Worker Schedule Report" documented that Respondent billed for the same dates and times for patients A.S. and A.L. on January 27, 2022, A.L. and V.F. on February 3, 2022, and J.F. and R.C. on February 21, 2022. The records also documented a gap between appointments on February 21, 2022, of 21 minutes for patients living approximately 40 minutes away from one another which was determined to be logistically impossible to achieve. Additionally, Ochsner Home Health provided a compliance report which supported its allegations.
7. An informal conference (Bertucci hearing) was held on September 28, 2022, at the Board office. During this conference, Respondent admitted to having several PTAs under his employ, and to entering the notes for a PTA and signing his own name for services provided by that PTA as a placeholder until the PTA received a tablet to enter the information into Ochsner Home Health's system. The Investigative Committee requested additional documentation from Respondent.
8. On October 10, 2022, Respondent provided to the Board the following documentation: text messages between Respondent and "Stacy," text messages between Respondent and "Aimee PT LHC," signature sheets for R.C. dated February 10, 2022, February 13, 2022, and February 20, 2022, texts from a group text message from LHC Regional Therapy Coordinator Stacey Romaguera, and Therapy Visit Notes for R.C. from March 9, 2022, through March 21, 2022. Respondent also provided audio links to phone calls between Respondent and the LHC Helpdesk regarding access to LHC tablets for his staff. The investigative committee compared the notes provided by Respondent on patient R.C. to R.C.'s medical record and observed that the treatment notes of actual subjective reports, treatment performed, and objective measures, including but not limited to, vital signs were falsified.
9. On January 18, 2023, the Board issued a subpoena to Houston Therapy for the complete physical therapy records for J.J., and D.V., including but not limited to any electronic and/or paper documents not included in LHCs patient charts.
10. By correspondence dated February 2, 2023, counsel for Respondent advised that Houston Therapy had no documents responsive to the subpoena.
11. On March 23, 2023, the Board issued a subpoena to Ochsner Home Health for the complete physical therapy records for V.F., J.T., and B.H. That same day the Board also issued a subpoena to Houston Therapy for the complete physical therapy record of J.M. That same day the Board also issued a subpoena to Pulse Home Health Care for the complete physical therapy record of J.M. The subpoenas were answered by the parties on or before April 18, 2023.

12. An additional informal conference was held on June 16, 2023, at the Board office. Respondent provided the following additional documentation: a transcript from a call with the Helpdesk, note from case manager Dawn to Respondent for B.H., Contractor Forms for Home Health Physical Therapy, Pulse Home Health Care Employee Education Form, texts with the Pulse Case Manager, LHC Entity Therapy Services Agreement, text messages between Respondent and "Aimee PT LHC," a generic treatment note, and a transcript of a call with "IT." Mr. Houston admitted to using a placeholder for patient visits until the PTA received a tablet, and failed to convince the Investigative Committee of the Board that he was not in violation of the Practice Act and board rules, as detailed below.
13. Respondent billed for the same dates and times for patients R.C. and J.F., and many of the notes did not have patient signatures; failed to sign treatment records on several occasions, and falsely signed and fabricated treatment records regarding treatment times, actual subjective reports, treatment performed, and objective measures, and vital signs. Respondent failed to maintain the standard of practice and put patients in a considerable potential of harm by documenting vital signs and measures that would inform care provided by treatment providers in the home health medical team.

VIOLATIONS RELATED TO RESPONDENT'S CONDUCT

Respondent's conduct described above and otherwise reviewed in this action is subject to and/or in violation of the following provisions of law regarding his practice of physical therapy:

1. La R.S. 37:2420(A)(1) - Practiced physical therapy in violation of the provisions of this Chapter, the rules of the board, or standards of practice;
2. La R.S. 37:2420(A)(7) - Been found guilty of unprofessional conduct, including but not limited to departure from, or failure to conform to, the minimal standards of acceptable and prevailing physical therapy practice, in which proceeding actual injury to a patient need not be established;
3. LAC 46 LIV §345(B)(1)(a) - As used in R.S. 37:2420(A)(7) of the Practice Act and in these rules, the term unprofessional conduct does not require actual injury to a patient, and includes, but is not limited to, the following: (1) departure from, failure to conform to, or failure to perform on a continuing basis to the minimal standards of acceptable and prevailing physical therapy practice as defined in §123, or the commission of any act contrary to honesty, justice, good morals, patient safety or the best interest of the patient, whether committed in the course of the licensee's practice or otherwise, regardless of whether actual injury to a patient results therefrom, including, but not limited to; (a) failure to use sound professional judgment;
4. LAC 46: LIV §341(B) – A licensee shall maintain accurate patient treatment and billing records and shall not falsify, alter, or destroy such records, the result of which would be to impede or evade investigation by the Board or other lawful authorities;

5. LAC 46: LIV §345(B)(10)(a) As used in R.S. 37:2420(A)(7) of the Practice Act and in these rules, the term unprofessional conduct does not require actual injury to a patient, and includes, but is not limited to, the following: (10) making or participating in any communication, advertisement, or solicitation which is false, fraudulent, deceptive, misleading or unfair in violation of board rules, or which contains a false, fraudulent, deceptive, misleading or unfair statement or claim, including, but not limited to: a. documenting services provided which have not been provided as documented or billing for services which have not been provided;

ORDER

Pursuant to the foregoing Factual Basis for Consent Order and Violations Related to Respondent's Conduct, and, in order to avoid further administrative and judicial proceedings, Respondent and the Board, by vote of quorum, agree as follows:

1. Respondent's license shall be suspended for six (6) months from the date this Order is approved by the Board.
2. At the conclusion of the suspension period, Respondent's license shall be on probation for five (5) years. Respondent shall submit to the Board Executive Director in writing not less than thirty (30) calendar days prior to completion of the probationary period a request for a letter from the Board formally acknowledging the close of the probationary period. Respondent's probationary period concludes upon receipt by Respondent of the Board letter acknowledging the close of the probationary period and a final exit interview with the Board to be scheduled by the Board Executive Director.
3. During the five (5) year probationary period, Board representatives will make random unannounced monitoring visits to Respondent's work site(s). Respondent shall fully cooperate with Board representatives making random unannounced monitoring visits to his work site(s) and shall provide complete access to his place of employment, employment and/or business records, patient treatment and billing records, and all other documentation necessary for a full legal compliance review. Respondent shall reimburse the Board for expenses related to the monitoring visit as invoiced and must be paid within 30 days of receipt of invoice.
4. Prior to the completion of the six-month suspension period, Respondent shall complete the PBI Education Medical Ethics and Professionalism (ME-15) Course. Respondent shall provide documentation in the form of a course completion certificate to the Executive Director within five (5) calendar days of receipt of such documentation;
5. During the five (5) year probationary period, Respondent shall provide a copy of this Consent Order to his employer(s), direct supervisor(s), any business or agency with which Respondent has contracted with to provide services for, any physical therapist(s), physical therapist assistant(s), or physical therapy technician(s) who are supervised by, work for, or contracted with Respondent at any business, including, but not limited to, any business(es) Respondent owns, operates or manages before providing physical therapy services and

shall have such person(s) notify the Executive Director in writing that they have received and reviewed a copy of this Consent Order prior to Respondent providing physical therapy services. Respondent shall do this also with any new or subsequent employer(s), direct supervisor(s), business or agencies with which Respondent has contract to provide services for, physical therapist(s), physical therapist assistant(s), or physical therapy technician(s) during the probationary period;

6. The five (5) year probation period shall be extended for any period of time in which Respondent is not employed as a physical therapist within the State of Louisiana and regularly working at least an aggregate over the month that is at *least eighty (80) hours* per month. If Respondent ceases to be regularly employed as a physical therapist in Louisiana, he shall notify the Executive Director in writing within *ten (10) calendar days* of the last date he has practiced physical therapy in Louisiana. Likewise, if Respondent returns to work as a physical therapist within the State of Louisiana, he shall notify the Executive Director in writing within *ten (10) calendar days* of his return to practice.
7. Respondent shall pay the Board the sum of \$9,574.67 in reimbursement for legal and administrative expenses incurred in this matter. Failure to reimburse associated fees will require the Board to take further action in collection of this debt. Respondent has twenty-four (24) months to reimburse the expenses before the debt will be considered final and transferred to the Louisiana Office of Debt Recovery (ODR). After transfer, the debt is subject to an additional collection fee of up to twenty-five percent (25%) of the total debt liability, as provided for in LA R.S. 47:1676 (E).
8. Respondent shall comply with La R.S. 37:2415(B) and notify the Executive Director of the Louisiana Physical Therapy Board in writing and prior to a change of residence to another country, state, or jurisdiction.
9. Respondent shall meet with the Board, or with the Board's representative, whenever requested during the probationary period, and shall fully cooperate in providing information and documents requested in such meetings.
10. Respondent shall have reliable access to a computer, internet, and telephone. In accordance with Board Rule §385, Respondent shall provide to the Executive Director his preferred telephone number and/or email address in writing for expedited communications regarding compliance with this Board Order within forty-eight (48) hours of signing the Consent Order. Respondent shall reply to Board emails and telephone calls within four (4) hours of such communication. Respondent shall notify the Executive Director in writing of any change to his preferred telephone number and/or email address immediately upon such change.
11. Respondent declares that, before signing this Consent Order, he is of sound mind has carefully read this document, understands the contents, and freely consents to it as valid and binding upon him. He is aware of his right to a notice of hearing, to a formal administrative hearing and to judicial review of an administrative finding, and freely waives those rights. Further, Respondent acknowledges that he has sought legal counsel and is currently represented in this matter.

12. Respondent acknowledges that his failure to comply with any term of this Consent Order is a basis for the immediate summary suspension of his license and for further disciplinary action by the Board.
13. Respondent acknowledges that this Consent Order only addresses the specific violations outlined above.
14. Respondent authorizes the Investigating Board Member and legal counsel assisting the Investigating Board Member, to present this Consent Order to the full Board for its consideration and to fully disclose and discuss with the Board the nature and results of the investigation. Respondent waives any objection to such disclosures under La. R.S. 49:977.2 and expressly acknowledges that the disclosure of such information to the Board shall be without prejudice to the Investigative Board Member's authority to file a formal Administrative Complaint against him, or to the Board's capacity, as currently comprised, or any future composition of the Board, to adjudicate such Complaint, should the Board decline to approve this Consent Order. Should the Board decline to approve this Consent Order, Respondent retains all rights to due process including, but not limited to, his right to have notice of any allegations or charges against him, to administrative adjudication of such allegations or charges, and to a subsequent final decision rendered upon written findings of fact and conclusions of law.
15. Respondent acknowledges that presentation to and consideration by the Board of this Consent Agreement, including presented documentary evidence and information, shall not unfairly or illegally prejudice or preclude the Board, or any of its members, as the Board is currently constituted, or any future appointments to the Board, from further participation in hearings or resolution to these proceedings.
16. Respondent acknowledges that this Consent Order becomes effective only upon signature by the Board Chair.
17. Respondent acknowledges that all communication(s) regarding compliance with and/or fulfillment of the requirements of this Consent Order shall be in writing between Respondent and the Board Executive Director. No verbal communication(s) shall be considered proof of compliance or commitment. Respondent acknowledges that it is the responsibility of the Respondent to fully comply with the Consent Order and proactively communicate with the Board Executive Director.

[Signatures on the Next Page]

I, MARCUS HOUSTON, have read this Consent Order, understand it, and agree to be bound by its terms and conditions.


MARCUS HOUSTON

SWORN TO and subscribed before me, Notary Public this 1st day of December, 2023,
in Mandeville, Louisiana.


Notary Public

Robert E. Guidry
Notary Name printed (#28064)

SUBMITTED FOR BOARD APPROVAL BY:


KATHRYN BRITTAIN
Complaint Investigator

Robert E. Guidry
Bar No. 28064
Notary Public
Commission Expires At 12/31/2024

AGREED AND ACCEPTED by official action of the Board, this 14th day of December, 2023, at Lafayette, Louisiana.

Louisiana Physical Therapy Board


Judith Halverson, P.T., D.P.T., M.H.A., Chair